

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumers' Action Network, (UCAN)

Complainant,

vs.

Pacific Bell Telephone Company and
AOL-Time Warner, Inc., Does 1-100,

Defendants.

Case 02-07-044
(Filed July 24, 2002)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Following a Prehearing Conference on August 12, 2003, and pursuant to Article 2.5 of the Rules of Practice and Procedure, this Scoping Memo and Ruling discusses the issues, scope and schedule of this complaint case.

1. Summary

The Utility Consumers' Action Network (UCAN) alleges that Pacific Bell Telephone Company (now SBC California, or SBC) and AOL/Time-Warner, Inc. (AOL) are responsible for causing intended toll-free calls to an Internet Service Provider (ISP) to be billed as toll calls, in violation of the Public Utilities Code. At the request of the parties, the case has been stayed three times while SBC conducted a test refund program involving ISP calls and while the parties discussed settlement.

2. Scope of the Proceeding

The issues to be considered in this proceeding are:

- a. Does SBC or AOL systematically reroute telephone calls from toll-free numbers to toll numbers when subscribers attempt to dial an ISP?
- b. Has SBC or AOL violated Pub. Util. Code §§ 2889.9 or 2890, or any other law or order of the Commission, in the handling of ISP calls by subscribers?
- c. Does the evidence show that subscribers are misled in their attempts to dial an ISP without a toll charge?
- d. Does the Commission affirm the Administrative Law Judge's Ruling dated August 14, 2003, concluding that the Commission has limited jurisdiction over AOL in this case pursuant to Pub. Util. Code §§ 2889.9 and 2890?
- e. What remedies, if any, are appropriate based on the evidence presented by complainant?

3. Schedule

A hearing is necessary. The parties have agreed on the following schedule:

December 19, 2003	UCAN serves written testimony and exhibits, with a copy to the Assigned Commissioner and the Administrative Law Judge (ALJ).
January 23, 2004	SBC and AOL serve responsive written testimony and exhibits, with a copy to the Assigned Commissioner and the ALJ.
February 6, 2004	UCAN serves written rebuttal testimony and exhibits, with a copy to the Assigned Commissioner and the ALJ.
February 23-27, 2004	Public hearing will begin at 10:00 a.m. in the Commission Hearing Room, 505 Van Ness Avenue, San Francisco.

It is my goal to have a decision resolving this matter by June 2004.

4. Category of Proceeding and Presiding Officer

The Commission has categorized Case 02-07-044 as adjudicatory.

I designate ALJ Walker as the presiding officer for the hearing in this matter.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. This proceeding is adjudicatory, and a public hearing is necessary.
4. Administrative Law Judge Walker is the presiding officer.

Dated August 26, 2003, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated August 26, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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